

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

OPERATING ENGINEERS LOCAL 139
HEALTH BENEFIT FUND, *et al.*,

Plaintiffs,

v.

Case No. 04-C-1000

BUGA EXCAVATING & TRUCKING LLC,

Defendant.

ORDER

Plaintiffs filed this action on October 13, 2004. On December 6, 2004, the plaintiffs moved for entry of default and moved for an order directing an audit to examine the defendant's payroll books and records. The clerk of court entered the defendant's default on December 7, 2004, and the court granted the plaintiffs' motion for an order directing an audit on January 12, 2005. The court has not heard from the plaintiffs for over 15 months, and the plaintiffs have not moved for entry of default judgment. It appears to the court that the plaintiffs are not diligently prosecuting this action. The court will dismiss this action with prejudice for lack of diligence. See Civil L.R. 41.3 ("Whenever it appears to the Court that the plaintiff is not diligently prosecuting the action, the Court may enter an order or dismissal with or without prejudice. Any affected party can petition for reinstatement of the action within 20 days.").

Accordingly,

IT IS ORDERED that this action be and the same is hereby **DISMISSED** with prejudice for lack of diligence.

The clerk of court shall enter judgment accordingly.

Dated at Milwaukee, Wisconsin, this 20th day of April, 2006.

BY THE COURT:

s/J.P. Stadtmueller
J.P. STADTMUELLER
U.S. District Judge